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UNIVERSITY OF WASHINGTON SCHOOL OF LAW  
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## PROFESSIONAL

<b>University of Washington School of Law</b> Seattle, Washington	2002-present
<ul style="list-style-type: none"><li>• <b>Judson Falknor Endowed Professor of Law</b> (2021-present)</li><li>• <b>Charles I. Stone Endowed Professor of Law</b> (2019-2021)</li><li>• <b>UW Foundation Professor of Law</b> (2013-2019)</li><li>• <b>Professor of Law</b> (2007-present)</li><li>• <b>Associate Professor of Law</b> (2002-2007)</li></ul>	
<b>Herchel Smith Visiting Fellow,</b> <b>University of Cambridge</b>	2018
<b>Senior Engelberg Fellow,</b> <b>New York University School of Law</b>	2014
<b>Visiting Scholar, University of Oxford</b>	2008-09
<b>Microsoft Corporation</b> Redmond, Washington	1991-2001
<ul style="list-style-type: none"><li>• <b>Associate General Counsel</b></li><li>• <b>Chair, <i>Uniform Computer Information Transactions Act (UCITA) Working Group, Business Software Alliance</i></b></li></ul>	
<b>Preston Gates &amp; Ellis (now K&amp;L Gates)</b> Seattle, Washington	1987-1991
<ul style="list-style-type: none"><li>• <b>Associate Attorney</b></li><li>• <b>Chair, International Practice Group</b></li><li>• <b>Counsel in the <i>Apple v. Microsoft</i> case</b></li></ul>	

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## PUBLICATIONS

### Books

- SOFTWARE LAW AND ITS APPLICATION (3d ed. 2023 Aspen)
- LICENSING INTELLECTUAL PROPERTY: LAW AND APPLICATION (with Xuan-Thao Nguyen and Danielle Conway) (5th ed. 2023 Aspen)
- INTELLECTUAL PROPERTY, SOFTWARE, AND INFORMATION LICENSING: LAW AND PRACTICE (with Xuan-Thao Nguyen and Danielle Conway) (2d ed. 2018 Bloomberg Law)
- 2007-2017 CUMULATIVE ANNUAL SUPPLEMENTS, INTELLECTUAL PROPERTY, SOFTWARE, AND INFORMATION LICENSING: LAW AND PRACTICE (with Xuan-Thao Nguyen and Danielle Conway)

### Articles

- *Separated by a Door Not a Wall: Replacing a Powerful Establishment Clause Metaphor*, 27 U. PA. J. CONST. L. 262 (2025)
- *Considering a Right to Repair Software*, 37 BERKELEY TECH. L.J. 941 (2023) (invited)
- *The Supreme Court's Chief Justice of Intellectual Property Law*, 22 NEV. L.J. 505 (2022)
- *Contracts Mattered as Much as Copyrights*, 66 J. COPYRIGHT SOC'Y 441 (2019)
- *Is the License Still the Product?*, 60 ARIZ. L. REV. 425 (2018)
- *Reasons for Counseling Reasonableness in Deploying Covenants-Not-To-Compete in Technology Firms*, 20 LEWIS & CLARK L. REV. 477 (2016) (invited)
- *Leaky Covenants-Not-To-Compete as the Legal Infrastructure for Innovation*, 49 U.C. DAVIS L. REV. 251 (2015)
- *In the Stewardship of Business Model Innovation*, 67 FLA. L. REV. FORUM 35 (2015) (invited response essay)
- *Fostering the Business of Innovation: The Untold Story of Bowers v. Baystate Technologies*, 7 WASH. J. L. TECH. & ARTS 445 (2012)
- *Enforcing Open Source Software Licenses: The MDY Trio's Inconvenient Complications*, 14 YALE J.L. TECH. 106 (2011)

- *Toward a Better Model for Educating Leaders in Intellectual Property Law*, 64 SMU L. REV. 1161 (2011) (invited)
- *The Federal Circuit's Licensing Law Jurisprudence: Its Nature and Influence*, 84 WASH. L. REV. 199 (2009) (selected as one of the best IP articles of 2010 and reprinted in INTELLECTUAL PROPERTY L. REV. (2010))
- *Conditions and Covenants in License Contracts: Tales from a Test of the Artistic License*, 17 TEX. INTEL. PROP. L.J. 335 (2009)
- *Open Source License Proliferation: Helpful Diversity or Hopeless Confusion?*, 30 WASH. U. J. L & POL'CY 261 (2009) (invited)
- *A First Look at General Public License 3.0*, 24 COMPUTER & INTERNET LAW. 15 (2007)
- *General Public License 3.0: Hacking the Free Software Movement's Constitution*, 42 HOUS. L. REV. 1015 (2005) (invited)
- *Entrepreneurial Open Source Software Hackers: MySQL and its Dual Licensing*, 9 COMPUTER L. REV. & TECH. J. 203 (2004) (invited)
- *Getting Serious About User-friendly Mass Market Licensing For Software*, 12 GEO. MASON L. REV. 387 (2004)
- *Non-Disclosure Agreements in Technology Collaborations: Balancing Risks and Opportunities*, 21 COMPUTER & INTERNET LAW. 17 (2004)
- *After 30 Years, the Debate Over Software Protection is Still Noisy*, NAT. L.J. (May 12, 2003), at S10-11
- *De-bugging Open Source Software Licensing*, 64 U. PITT. L. REV. 75 (2002)
- *Legal Protection For Software: Still A Work In Progress*, 8 TEX. WESLEYAN L. REV. 445 (2002) (invited)
- *How Copyleft Uses License Rights to Succeed in the Open Source Software Revolution and the Implications for Article 2B*, 36 HOUS. L. REV. 179 (1999) (invited)
- *The License is the Product: Comments on the Promise of Article 2B for Software and Information Licensing*, 13 BERKELEY TECH. L. J. 891 (1998) (invited)

- *The Implied Warranty of Merchantability in Software Contracts: A Warranty No One Dares to Give and How to Change That*, 16 JOHN MARSHALL J. COMPUTER & INFO. LAW 393 (1998)
- *A Brief Defense of Mass Market Software License Agreements*, 22 RUTGERS COMPUTER & TECH. L.J. 335 (1996) (with Mary L. Williamson)
- *Licensing Rights to Computer Software*, TECHNOLOGY LICENSING & LITIGATION 775 (Practicing Law Institute 1993) (with William H. Neukom); updated version published under the same title in 5 CORP. ANALYST 100 (1993)
- *Defenses to Copyright Infringement*, COMPUTER LAW 1991 (CLE International 1990) (with Martin F. Smith & Cynthia M. Hayward); updated version published in Spanish as *Defensas contra reclamos por infraccion a los Derechos de Autor relacionados con Software*, 32 DAT: DERECHO DE LA ALTA TECNOLOGIA 1 (April 1991)
- *Research and Development and High Technology Joint Ventures*, JOINT VENTURING ABROAD (Wash. St. Bar 1988) (with Martin F. Smith)

***Other Publications:***

- *Clarifications and Complications in Enforcing Open Source Software Licenses*, in RESEARCH HANDBOOK ON INTELLECTUAL PROPERTY LICENSING 76 (Jacques de Werre ed., Edward Elgar Publishing 2013)
- *International Law Governing Aid to Armed Opposition Groups in Civil War: Resurrecting the Standards of Belligerency*, 63 WASH. L. REV. 43 (1988)
- Comment, *Recognizing the Liability of Social Hosts Who Knowingly Allow Intoxicated Guests to Drive: Limits to Socially Acceptable Behavior*, 60 WASH. L. REV. 389 (1986), quoted in Dickinson v. Edwards, 105 Wn.2d 457 (1986)

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**TEACHING**

***University of Washington School of Law***

<u>Legal Protection For Software</u>	1996-2013, 2015-23
<u>Drafting Intellectual Property Licenses</u>	2009-13, 2015-25
<u>Intellectual Property Law Core/Survey</u>	2007-08, 2009-11, 2014-15

<u>Constitutional Law: Freedom of Expression</u>	2011-13, 2016-24
<u>Intellectual Property Innovations in Science and Technology</u>	2002-09
<u>Intellectual Property Seminar</u>	2002-07, 2015
<u>Tutorial and Special Topics Courses on Licensing Law</u>	2004-08
<u>Trademark &amp; Trade Secret Law</u>	2016-17, 2019-2025

### *Other Law Schools*

<b>New York University School of Law</b> <i>Guest Lecturer, <u>Patent Licensing</u> (Prof. Dreyfuss)</i>	2014
<b>Seattle University School of Law</b> <i>Guest Lecturer, <u>Copyright Law</u> (Prof. Brunstad)</i>	2006-09
<b>Dedman School of Law, Southern Methodist University</b> <i>Guest Lecturer, <u>E-Commerce</u> (Prof. Nguyen)</i>	2003
<b>University of Michigan School of Law</b> <i>Guest Lecturer, <u>Technology Financing Seminar</u> (Prof. Mann)</i>	1999

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## SELECTED PRESENTATIONS

- *Church and State: Separated by a Door Not a Wall*, Sunset Club, Seattle, WA (2025)
- *Intellectual Property Licenses as Property*, New “Frontiers” in Property in the AI Age, University of Washington School of Law (2025)
- *Trademark Law Meets the First Amendment*, Intellectual Property Section, King County Bar Association (2025)
- *Expression and Establishment in Public Schools*, Sunset Club, Seattle, WA (2022)
- *Considering a Right to Repair Software*, The Emergent Right to Repair, U.C. Berkeley Center for Law & Technology (2022)
- *What Makes Software “Open Access?”*, University of Washington School of Law/Keio University Law School (2020)

- *Copyright Licensing For Revolutionaries*, Center for Intellectual Property and Information Law, University of Cambridge (2018)
- *Is the License Still the Product?*, Pacific Intellectual Property Scholars Conference (2017)
- *Intellectual Property Licensing Models After Impression Products v. Lexmark*, CASRIP Summer Institute, University of Washington School of Law (2017)
- Panelist, *The Values and Ethics of Deals*, The Art and Science of the IP Deal, University of Washington School of Law (2017)
- *Reasons for Reasonable Covenants-Not-To-Compete*, Intellectual Property Law Section, King County Bar Association (2016)
- Panelist, *Constitutional Implications of Managing Urban Activities: Protests, Civil Disobedience, Homelessness – Where Is the Line Between Constitutional Rights and Criminal Activity?*, Seattle University Center for the Study of Crime and Justice (2016)
- *The Non-Enforcement of Non-Compete Agreements in the Technology Sector--Comparing the Silicon Valley and Silicon Sound Experiences*, 20th Annual Business Law Forum, Lewis & Clark Law School (2015)
- *IP in the Cloud: The Use of the Cloud by Universities*, National Association of College & University Attorneys (2015)
- *The Business of Innovation*, Center for Intellectual Property and Innovation, Indiana University--McKinney School of Law (2014)
- *Federal Circuit Jurisprudence on Licensing Rules*, Licensing IP and Technology Conference, Law Seminars International (2014)
- *Fostering the Business of Innovation*, Information Ethics and Policy Conference, Department of Philosophy, Simpson Center for the Humanities, and the Information School, University of Washington (2013)
- *Intellectual Property Protection and Licensing in the Software Industry*, Seminar on IP Rights in the Information Age, Chinese Supreme People's Court IP Tribunal, June 18, 2012 (Nanjing, China) and Renmin University School of Law, June 25, 2012 (Beijing, China)
- *Open Source Software and the License Proliferation Problem*, Waseda University School of Law, Oct. 16, 2010 (Tokyo, Japan) and Osaka Institute of Technology, Oct. 18, 2010 (Osaka, Japan)

- *Open Source License Diversity and the Simple Public License*, Intellectual Property Week, University of Hawaii--Richardson School of Law (2010)
- *Open Source and Open Minds: Patents in a New Commercial Environment (title of talk--"FOSS and its Fear of Patents")*, Olswang Patent Seminar, London (2009) (commemorating the publication of PATENT LAW AND THEORY (Toshiko Takenaka ed. 2009))
- *Open Source: Changing Intellectual Property Transactions?*, Queen Mary College, University of London (2009)
- *Open Source Revolution: Copyright and Contract, the Unlikely Heroes*, Intellectual Property Research Centre, Oxford University (2008)
- Keynote, *Federal Circuit's Licensing Law Jurisprudence: Its Nature and Influence*, Symposium on Emerging Intellectual Property Issues, Southern Methodist University--Dedman School of Law (2008)
- *Open Source License Proliferation: Helpful Diversity or Hopeless Confusion?*, Open-Source and Proprietary Models of Innovation: Beyond Ideology, Washington University Law School (2008)
- *A First Look at GPLv3*, Licensing Executives Society (Seattle Chapter) (2008)
- Panelist, *Licensing Intellectual Property*, Annual Intellectual Property Institute, Washington St. Bar Assoc. (2008)
- *Commercial Law Meets the Computer Revolution: Complexity, Creativity, Controversy*, Section on Computers and the Law, Association of American Law Schools (2007)
- Panelist, *Technology Acquisitions and Transactions Involving Open Source Software*, Law Seminars International (2007)
- *Licensing: The Interface of Intellectual Property and Contract*, Intellectual Property Licensing Seminar, Washington St. Bar Assoc. (2006)
- *Intellectual Property LL.M. Programs After the Big Bang*, Workshop on Intellectual Property, Association of American Law Schools (2006)
- *Free and Open Source Licensing: The Next Generation*, Licensing Executives Society (Seattle Chapter) (2006)
- Panelist, *The Limits of Contract and Copyright*, Copyright Society U.S.A. Mid-Winter Meeting (2006)

- *Hacking the Free Software Movement's Constitution*, Pacific Intellectual Property Scholars Conference (2005)
- *General Public License 3.0*, Institute for Intellectual Property & Information Law, University of Houston Law Center (2005)
- Panelist, *Fair Use – Is It Or Isn't It?*, Copyright Society U.S.A. (Northwest Chapter) and Seattle University Intellectual Property Law Society (2005)
- Panelist, *Emerging Issues on the Internet*, Northwest eBusiness 2005, University of Washington Business School (2005) (broadcast on UWTV)
- *Intellectual Property Law for Technology 101 – If you copyright my trademark, then I'll open source your patent!*, sponsored by the Simpson Center for the Humanities, Digital Media Working Group, and Center for Internet Studies, University of Washington (2004)
- Panelist, *Thinking Strategically About Open Source*, Shidler Center for Law, Commerce, and Technology, University of Washington School of Law (2004)
- *A Lawyer Looks at the Open Source Software Revolution*, Center for Internet Studies, University of Washington (2004)
- *Open Source Software – From Hackerdom to Corporate Computing*, Seminar on Emerging Intellectual Property Issues, Southern Methodist University--Dedman School of Law (2004)
- *Getting Serious About User Friendly Licensing*, Pacific Intellectual Property Scholars Conference (2003)
- *Licensing Computer Software*, Center for American and International Law, Academy of American and International Technology Law (2003)
- *Open Source Software Licensing*, Look Before You License: Handling Intellectual Property Licensing and Related Rights, Washington St. Bar Assoc. (2003)
- *The Open Source Software Revolution*, Intellectual Property Institute, Washington St. Bar Assoc. (2003)
- *Legal Protection for Software and Information Technology*, Intellectual Property and eCommerce Annual Conference, Texas Wesleyan School of Law (2002)
- Panelist, *The Future of e-Business*, Electronic Commerce Resource Center, Pacific Lutheran University (2001)
- *Commercial Licenses: The Impact of UCITA*, Practising Law Institute (2000)

- *Shrinkwrap and Clickwrap Agreements – Enforceability Update*, Doing Business Online (2000)
- Panelist, *Information in the Digital Age*, New York City Bar Association (1999) (with George Cook, Jane Ginsburg, Justin Hughes, Raymond Nimmer, Pamela Samuelson) (speech published in 18 CARDOZO ARTS & ENT. L.J. 615 (2000))
- Commentator, *Intellectual Property and Contract Law in the Information Age: The Impact of Article 2B*, U.C. Berkeley Center for Law & Technology (1998) (commentary on paper presented by Prof. Mark Lemley)
- *Uniform Commercial Code Article 2B: Contract Law for the Information Age*, Computer Law Institute (1997, 1998)
- *Computer Software Protection*, Practicing Law Institute (1998, 1997)
- *Confidentiality Agreements in Technology Joint Developments*, Georgetown Advanced Computer Law Institute (1997)
- *Contracting For Content and Contracting On-Line*, Computer & Information Law Institute, University of Houston Law Center (1997)
- *Ten Patent, Copyright, Trademark, and Licensing Lessons to Learn on Someone Else's Nickel*, Northwest Venture Group (1995) (with Martin F. Smith)
- *Licensing Rights to Computer Software*, Practicing Law Institute (1993) & Oregon Patent Law Association (1993)
- *Copyright Protection and Fair Use*, Washington Special Libraries Association (1990)

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## ACADEMIC LEADERSHIP & SERVICE

- Faculty Director, **Intellectual Property Law & Policy Graduate Program**, UW School of Law (2002-2015, 2016-2021)
- Lead Faculty Director, **Center for the Advanced Study and Research on Innovation Policy** (2019-2021) and **Law, Technology & Arts Group** (2010-2014)
- Faculty Advisor, *Washington Law Review* (2011-2020)
- Faculty Advisor, *Washington Journal of Law, Technology & Arts* (2011-2018, 2020-2021)

- Chair, University of Washington’s **Advisory Committee on Intellectual Property Protection and Practice** (2016-2018)
- Chair, University of Washington’s **Intellectual Property Management Advisory Committee** (2012-2013) and Member (2004-2007)
- Chair, **Intellectual Property Law Cluster**, as part of the UW School of Law’s curriculum reform process (2007-2008)
- Co-Chair, **Strategic Planning Steering Committee** (2020-2021); Member, **Strategic Planning Steering Committee** (2004-2006); Chair, **Subcommittee on Programs and Centers** as part of the UW School of Law’s strategic planning process (2003)
- **Promotion & Tenure Committee** (Chair 2019-2020, Member 2016-2017); **Merit Committee** (2006-2008); **Faculty Appointments Committee** (2006-2007, 2021-2022); **Executive Council** (2003-2005); **Lectureships Committee** (Chair 2022-2023; Member, 2004-2005, 2009-2010, 2015-16)
- Chair, **Section on Computers and the Law, Association of American Law Schools** (2008-2009)

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## COMMUNITY ACTIVITIES

<b>Pacific Lutheran University</b>	2001-2010
<i>Chair</i> , Board of Regents (2006-2010)	
<i>Vice-Chair</i> , Board of Regents (2004-2006)	
<i>Secretary</i> , Board of Regents (2002-2004)	
<i>Chair</i> , Xavier Hall Restoration Committee	
<i>President’s Medal</i> (2011), <i>Distinguished Alumni Award</i> (2012)	
<b>Independent Colleges of Washington</b>	2002-2005
Board of Directors	
<b>Rural Development Institute (now called Landesa)</b>	2002-2006
Board of Directors	
<b>Camp Fire U.S.A. (Central Puget Sound Council)</b>	1994-1999
Board of Directors and Strategic Planning Committee	
<i>Vice President and Chair</i> , Strategic Planning Committee (1997)	
<i>Ernest Thompson Seton Award</i> (awarded for outstanding board and committee leadership)	

<b>Leadership Tomorrow</b> Selected for civic leadership program sponsored by Seattle Chamber of Commerce and King County United Way.	Class of 1991
<b>Northwest Immigrant Rights Project</b> <i>Volunteer Lawyer.</i> Represented refugees in appeals before Ninth Circuit, U.S. District Court, Board of Immigration Appeals, and Washington Court of Appeals.	1987-1995
<b>Coach for youth basketball, soccer, and fast pitch softball</b>	1999-2008
<b>Coach for speech and debate, Bear Creek School Forensics Team</b>	2009-2017

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## EDUCATION

### *Graduate Degrees:*

- **Juris Doctor**, University of Washington School of Law, 1987
- **Master of Arts**, University of Washington, Jackson School of International Studies, 1987 (emphasis: international protection of human rights)
- **Activities and Honors:**
  - **Washington Law Review**, Executive Editor, Notes and Comments
  - **Order of Barristers**
  - **Jessup International Moot Court**, first place team and best brief in Western Region

### *Undergraduate Degree:*

- **Bachelor of Arts**, *magna cum laude*, Pacific Lutheran University, 1983 (majors: history, political science)
- **Activities and Honors:**
  - **ASPLU President**
  - **Arête Society**
  - **University Chorale**